

Exhibit A

1
2 IN THE UNITED STATES BANKRUPTCY COURT
3 FOR THE SOUTHERN DISTRICT OF TEXAS
4 HOUSTON DIVISION

5 In re:
6 MOUNTAIN EXPRESS OIL COMPANY, et al.,
7 Debtors.

8
9 Case No. 23-90147 (DRJ)

10 Chapter 11

11
12 Auction

13 Moderated by Geoffrey Richards

14 Friday, August 4, 2023

15 6:09 p.m. EDT/5:09 p.m. CDT

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18 Remote Proceeding

19 320 Park Avenue, 12th Floor

20 New York, New York 10022

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23 Reported by: Nicole Veltri, RPR, CRR

A P P E A R A N C E S:

RAYMOND JAMES & ASSOCIATES

320 Park Avenue, 12th Floor
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BY: GEOFFREY RICHARDS, ESQ.
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ROGER WOODMAN, ESQ.
BEN BROWNLOW, ESQ.
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MICHAEL MACELUCH, ESQ.

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Terminus 200
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BY: JOHN ELROD, ESQ.
SHARI HEYEN, ESQ.

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List of Attendees:

John Tibus, as financial adviser to
the agent

Paula Davis, First Horizon Bank

Donald Turbyfill, Ford Motor Credit
Company LLC

Ron English, JT Petroleum LLC

Alex Rhim, Realty Income

Sam Nasser, SMD Oil

Tom Terry, Sunoco

Chip Damico, Sunoco

Adam Rosen, the Creditors' Committee

Julius Schwarz, GPM Investment/ARKO
Corp.

Eyal Nuchamovitz, GPN

Arie Kotler, ARKO Corp./GPM
Investment

Travis Booth, GPM Investments

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MR. RICHARDS: Good evening.

My name is Geoffrey Richards, and I'm the senior managing director of Raymond James, the Debtors' court-approved investment banker. I'm joined by a number of other representatives both from my firm as well as Pachulski Stang, the Debtors' court-approved law firm, and FTI; and what I would like to do is to ask the representatives first from Raymond James to identify themselves, then the Pachulski team, and then the FTI team, please.

MR. GARFINKEL: Scott Garfinkel from Raymond James.

MR. WOODMAN: Roger Woodman, Raymond James.

MR. BROWNLOW: Ben Brownlow, Raymond James.

MR. WAINWRIGHT: Jake Wainwright, Raymond James.

MR. MACELUCH: Michael Maceluch, Raymond James.

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2 MR. POMERANTZ: Jeff Pomerantz,
3 Pachulski Stang.

4 MR. DULBERG: Jeffrey Dulberg,
5 Pachulski.

6 MR. RICHARDS: And then I think
7 the FTI team.

8 MR. HEALY: Michael Healy, FTI
9 Consulting.

10 MR. RICHARDS: Okay.

11 And then with that, if I can
12 ask the other people on the line to
13 identify themselves and which
14 constituents they represent, please.

15 MR. ELROD: Good evening. It's
16 John Elrod, of Greenberg Traurig LLP,
17 on behalf of First Horizon Bank as
18 DIP agent.

19 MS. HEYEN: Shari Heyen,
20 Greenberg Traurig, on behalf of First
21 Horizon, the agent.

22 MR. TIBUS: John Tibus, as
23 financial adviser to the agent.

24 MS. DAVIS: Paula Davis, First
25 Horizon Bank.

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MR. TURBYFILL: Donald
Turbyfill on behalf of Ford Motor
Credit Company LLC.

MR. ENGLISH: Ron English for
JT Petroleum LLC.

MS. RHIM: And this is Alex
Rhim on behalf of Realty Income, the
successor to 42 ARLA (phonetic) and
42 OKLA (phonetic) are the parties
indicated as the contract parties.

MR. NASSER: This is Sam
Nasser, SMD Oil.

MR. RICHARDS: Tom Terry, are
you on?

MR. TERRY: Yes. Tom Terry is
on from Sunoco, as is Chip Damico,
which is D-A-M-I-C-O.

MR. RICHARDS: And then I also
see -- sorry, again, this is Geoff
Richards. I also see a
representative from the Creditors'
Committee, Adam Rosen; is that right?

MR. ROSEN: Yes. Adam Rosen
with Province, financial adviser to

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2 the Creditors' Committee.

3 MR. RICHARDS: And I see that
4 Julius Schwarz has joined. Julius,
5 can you just identify yourself for
6 the record? We are just going around
7 to identify who all the participants
8 are on the call, please?

9 (There was no response.)

10 MR. RICHARDS: Julius, are you
11 able to just identify yourself for
12 the record?

13 MR. SCHWARZ: I'm sorry, Julius
14 Schwarz is on. I'm sorry, I'm
15 actually in the car.

16 MR. RICHARDS: Can you just
17 identify who you represent?

18 MR. SCHWARZ: I apologize.
19 Julius Schwarz is on representing GPM
20 Investment/ARKO Corp.

21 MR. RICHARDS: Thank you,
22 Julius. Are there any other people
23 who are on this Zoom who have not yet
24 identified themselves for the court
25 reporter?

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2 MR. POMERANTZ: Jeff, there's a
3 215 number, did we get an appearance
4 from them? Doesn't say a name.

5 MS. SCHWARZ: By the way, I
6 assume Arie and Eyal were invited. I
7 assume they should be getting on in a
8 second if they are not on yet.

9 MR. POMERANTZ: Is the 215 --

10 MR. RICHARDS: I see Eyal
11 joining.

12 MR. NUCHAMOVITZ: We didn't get
13 the invite.

14 MR. RICHARDS: I'm sorry, as we
15 talk, just to try to make it
16 efficient for the court reporter.
17 This is Geoff Richards. As people
18 speak, we should identify ourselves
19 to try to make it as easy for the
20 court reporter as we can. The person
21 who is at the 215-901-3991 number --

22 MR. DAMICO: That's me, Chip
23 Damico with Sunoco LP.

24 MR. RICHARDS: Thank you very
25 much, Chip.

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2 And then, Eyal, I notice that
3 you're on. Can you just identify
4 yourself and who you're with for the
5 record, please?

6 MR. NUCHAMOVITZ: Yes, Eyal
7 Nuchamovitz from GPN, E-Y-A-L.

8 MR. RICHARDS: Again, Geoffrey
9 Richards. Is there anybody else who
10 has joined the call and not
11 identified themselves?

12 MR. NUCHAMOVITZ: I know that
13 Arie is trying to call in. I see
14 he's connecting. Travis is
15 connecting, too.

16 MR. RICHARDS: Again, Geoff
17 Richards. I think we've had two
18 additional people who joined from
19 GPM/ARKO.

20 Arie, if I could ask you to
21 identify yourself and who you're
22 with; and then, Travis, if I can ask
23 you to do the same, please.

24 MR. KOTLER: Yes, this is Arie
25 Kotler, A-R-I-E, last name,

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K-O-T-L-E-R, with ARKO Corp./GPM
Investment.

MR. BOOTH: This is Travis
Booth, B-O-O-T-H; and I am with GPM
Investments.

MR. RICHARDS: Anyone else who
has joined the call who has not yet
identified themselves?

(There was no response.)

MR. RICHARDS: All right.

So we are here to conduct the
auction as contemplated by that
certain Order approving bid
procedures for sale of the Debtors'
assets, approving bid protections,
scheduling certain dates with respect
thereto, approving the form and
manner of notice thereof, and
approving contract assumption and
assignment procedures entered by the
United States Bankruptcy Court for
the Southern District of Texas on
June 22nd, 2023, at Docket No. 701.

I will refer to this Order as

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the Bid Procedures Order. Pursuant to the Bid Procedures Order, July 21st was established as the deadline to submit bids; and July 28th was established as the date of the auction.

The Debtors received 12 bids on or before the July 21st bid deadline and four additional bids following the July 21st bid deadline. Certain of the bids were for the entire business, and others were for discrete groups of assets. While the bids in totality indicated significant interest in the Debtors' assets, it included bid values ranging from \$500,000 to \$97 million. None of the bids were qualified bids as defined in the Bid Procedures Order.

Based upon consultation with the Lenders and the Creditors' Committee, the Debtors needed more time to discuss the bids with the

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2 different bidders in order to attempt
3 to eliminate contingencies in those
4 bids and to negotiate documentation
5 in an effort to convert those bids
6 into qualified bids.

7 Accordingly, on July 27th, the
8 Debtors filed a Notice continuing the
9 auction until August 2nd. That
10 document appears at Docket No. 1099.
11 Subsequently, the Debtors filed the
12 Notice extending the dates for
13 objections to adequate assurance and
14 objections to the sale until
15 August 4th and August 7th
16 respectively.

17 Prior to August 2nd, Raymond
18 James had conversations with
19 virtually all of the bidders to
20 further understand their bids,
21 discuss contingencies in those bids,
22 understand how the bidders were
23 valuing the assets, explore whether
24 there was flexibility on what assets
25 those bidders were proposing to

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acquire, and the price those bidders were willing to pay.

The goal was to determine whether there were bids or groups of bids that were competitive with one another as well as complementary to one another. It could be grouped together to maximize value and present an alternative to WholeCo bids that have been submitted.

Several of the many challenges the Debtors faced in the process was a substantial overlap amongst certain bids, the challenges in breaking up the mass releases for certain of the bids, the requirement in many of the bids for substantial lease concessions from different landlords, and the time required to close.

As a result of these discussions, six parties indicated that they intended to participate in the auction. Of those bids, only one was a bid for the whole company, or a

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2 WholeCo bid, and the rest were for
3 discrete groups of assets. The
4 Debtors' professionals also asked
5 that representatives of the Debtors'
6 REITs, their major landlords, be
7 available during the auction to meet
8 with bidders, either in person or
9 virtually, to discuss the terms on
10 which those bidders would be willing
11 to restructure their leases.

12 The parties convened at Raymond
13 James' offices at 10 a.m. on
14 August 2nd. The Debtors'
15 professionals met with each of the
16 bidders and the REIT landlords and
17 explained that over the next several
18 hours, the Debtors would be
19 facilitating discussions between
20 bidders and landlords, meeting with
21 bidders to explore ways that bidders
22 might be able to increase their bids
23 and approach the WholeCo bidder to
24 encourage the carve-out of certain
25 assets from that bid to allow the

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2 Debtors to try to maximize value by
3 adding partial lot bids to the
4 WholeCo bid.

5 After extended negotiations
6 with all of the parties and with many
7 discussions still ongoing, the
8 Debtors' professionals informed all
9 the parties that it was unlikely that
10 the auction would be able to commence
11 on August 2nd.

12 Thereafter, the Debtors'
13 professionals kept parties, as well
14 as the Committee and landlord
15 advisors, updated throughout the day;
16 and during the day, the Debtors'
17 professionals had more than 20
18 meetings with the various parties all
19 with the goal of maximizing value of
20 the Debtors' assets and trying to
21 increase certainty of close.

22 Negotiations with parties
23 continued throughout the evening, and
24 the parties, as well as the Committee
25 and Lender advisers, were informed

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that the auction would recommence on Thursday, August 3rd, at 11 a.m.; and then throughout the day, that time was postponed as negotiations continued.

The auction was rescheduled for Friday, August 4th, at 10 a.m.; and we've continued the auction throughout the day today while parties worked on developing an actionable bid. The discussions among the Debtors' professionals and the various bidders revealed certain realities which affected the auction dynamic and constrained bid value.

First, ARKO, the WholeCo bid whom the Debtors are going to announce in a few minutes as the party that has submitted the highest and best proposal declined to carve-out assets from its bid in order to enable the Debtor to sell those assets to other bidders as a means of potentially increasing

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overall value.

Second, many of the bidders' contingencies relating for lease concessions were not satisfied.

Third, several parties revealed material time to close the transaction, or rather required material time to close the transaction; and the Lenders indicated that they were unwilling to extend any further financing to reach a closing.

And, fourth, because the Debtors are unable to break their mass release with Oak Street, absent Oak Street and for that matter the other landlords' consent, this prevented partial bids seeking only a small portion of REIT portfolios from being actionable.

As a result, the Debtors focused their efforts on negotiating a WholeCo bid with ARKO and seeking significant concessions from Oak

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2 Street in connection therewith.

3 As a result of these
4 protracted, constructive, and at
5 times contentious negotiations is a
6 Letter of Intent which is in the
7 process of being finalized but has a
8 number of key features.

9 Before I describe those
10 features, Jeff Pomerantz, is there
11 anything that you want like to add
12 before I go through that, please?

13 MR. POMERANTZ: No. It's in
14 the process of being finalized.
15 There isn't an agreement yet, but we
16 hope to have that finalized later
17 today and on the docket.

18 MR. RICHARDS: Thank you. With
19 respect to the key features, first is
20 a purchase price of approximately
21 \$49 million for all assets except the
22 Debtors' owned real estate and
23 pre-petitioned litigation claims
24 against all parties except Oak Street
25 and ARKO, also known as GPN.

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Second, a \$13-and-a-half million nonrefundable deposit would be available to the Debtors to fund operations and professional fees until a closing not later than October 31st, 2023. Approximately \$16 million would be available at closing from which to pay certain claims which are subject to the DIP carve-out and also to pay certain excise taxes among other administrative claims.

Importantly, Raymond James has agreed to reduce its M&A fee by \$1 million subject to recapture if there are cash flow savings prior to close; and Pachulski and FTI have agreed not to be paid \$2 million at closing in fees which exceeded the budget. Up to \$20 million at close to pay the Lenders. The Lenders would also be entitled to any surplus funds not spent through the budget after Raymond James has paid its \$1 million

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deferred fee.

Oak Street would contribute to ARKO \$18.75 million, which will be used to pay a portion of the purchase price. Oak Street would defer three months of rent beginning in August until closing. All other landlords would be given the option of deferring rent through closing, agreeing to restructure their leases and waive cure claims or the leases would be rejected at the end of August.

The foregoing transaction of which that is a summary, as Mr. Pomerantz indicated a few minutes ago, the further details of which are in the process of being finalized and will be filed with the Court, provides the Lenders with up to a \$20 million cash recovery on its new money DIP loan, plus upside related to assets that are retained under this transaction structure.

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The Debtors believe that this bid is superior to a liquidation of conversion. It would preserve thousands of jobs and more than one hundred small businesses, and the Debtors intend to proceed with this transaction at the court hearing on Monday.

Mr. Pomerantz, is there anything you would like to add to my comments?

MR. POMERANTZ: Yes. Let me just clarify that last comment.

We will not seek approval of the transaction on Monday. We are going to provide the Court with an update regarding the process. We're going to provide the Court, obviously, with a Letter of Intent; and then we are going to discuss a path for finalizing an Asset Purchase Agreement and coming back to Court for further Court approval. So any objections people have to the sale,

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to assumption and assignment of their contracts, or to the cure amounts will be preserved; and they will be provided sufficient time to file and prosecute those objections if they can't be resolved.

MR. TIBUS: This will be documented and sent over, you said around tonight?

MR. POMERANTZ: That's our intent and goal. We are at the final stages, a couple issues left to resolve; but we will send it over to you, John, and the Lenders, in advance of filing it with the Court.

MR. ELROD: This is John Elrod on behalf of Lenders. The Lenders object to the conduct of the auction as it was not conducted in accordance with the bid procedures. We object to the characterization that the Lenders were consulted regarding the adjournment of the auction. The Debtors did this without the consent

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2 of the DIP agent.

3 The Debtors' counsel has
4 acknowledged that there are no
5 qualified bidders and it has done --
6 and the Debtors' investment banker
7 has acknowledged that on the record
8 here today. The Debtors, moreover,
9 did not consult with the consultation
10 parties during the course of the
11 auction as required under the bid
12 procedures.

13 Based on what we know today as
14 the bid has been described, it is
15 clear that the bid does not pay the
16 secured Lenders in full. The DIP
17 agent, therefore, objects to the
18 Debtors' proposed sale. There are no
19 definitive documents relating to the
20 structure of the bid. There's no
21 Asset Purchase Agreement for us to
22 review as of today. And, therefore,
23 we reserve all rights until we see
24 the final documents.

25 MR. POMERANTZ: This is Jeff

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Pomerantz. Objections are noted, and I will not respond in this forum to these statements and assertions you've made and reserve all our rights to challenge you to these statements you've made today on the record.

MR. RICHARDS: So Geoff Richards again. Unless, Mr. Pomerantz, you think there is anything else that we ought to cover, this, I think, concludes today; and we appreciate everyone's time and patience over the preceding days.

Mr. Pomerantz, is there anything to add?

MR. POMERANTZ: Jeff Pomerantz, nothing else.

MR. RICHARDS: Thank you all for your time this evening.

Again, we appreciate it very much. I think, Ms. Veltri, we're off the record.

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(Whereupon, at 6:30 p.m., the
Proceedings were concluded.)

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C E R T I F I C A T E

STATE OF NEW YORK)
: SS.:
COUNTY OF SUFFOLK)

I, NICOLE VELTRI, RPR, CRR, a Notary
Public for and within the State of New
York, do hereby certify:

That the within is a true and
accurate transcript of the proceedings
taken on August 4, 2023.

I further certify that I am not
related to any of the parties to this
action by blood or marriage and that I am
in no way interested in the outcome of this
matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this August 4, 2023.



NICOLE VELTRI, RPR, CRR

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